

FILED

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ALASKA

FEB 10 2000

CLERK
U.S. BANKRUPTCY COURT

By _____
DEPUTY CLERK

In the Matter of the Adoption
of Local Bankruptcy Rules

GENERAL ORDER NO. 00-01

ORDER ADOPTING LOCAL BANKRUPTCY RULES AND FORMS

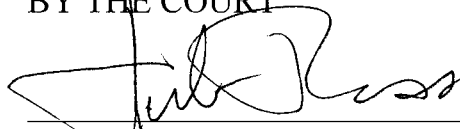
In accordance with the February 4, 2000, Order of the United States District Court granting this court authority to amend local bankruptcy rules and forms,

IT IS ORDERED:

- 1) The attached Local Bankruptcy Rules 2003-1, 2016-1, 3022-1, 4001-2, 4003-1 and 9013-2 for the United States Bankruptcy Court for the District of Alaska are adopted effective from and after **March 1, 2000**. Rules 4001-2 and 4003-1 are new. Rules 2003-1, 2016-1, 3022-1 and 9013-2 amend and shall supersede the former Local Rules bearing the same number.
- 2) The attached Local Bankruptcy Forms 5, 29, 34, 35 and 36 for the United States Bankruptcy Court for the District of Alaska are adopted effective from and after **March 1, 2000**. Forms 5 and 29 amend and shall supersede the former Local Forms bearing the same number. Forms 34, 35 and 36 are new.

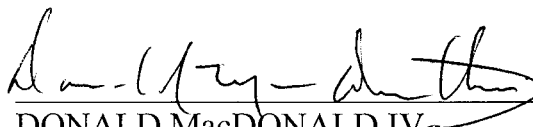
DATED: February 8, 2000.

BY THE COURT



HERBERT A. ROSS

United States Bankruptcy Judge



DONALD MacDONALD IV

Chief United States Bankruptcy Judge

Serve: W. Wolfe, Clerk of Court
C. Davidson, Librarian
Ray (for distribution)
T. Yerbich, Esq. (without attachments)

RULE 2003-1
MEETING OF CREDITORS AND SECURITY HOLDERS

(a) Failure to Attend or File Schedules

[Abrogated]

(b) Continuances

Requests for a continuance must be made in writing to the Office of the United States trustee, unless an adjournment is granted by the presiding officer on the record at the regularly scheduled meeting of creditors.

(c) Telephonic Appearances

A request for a telephonic appearance by the debtor(s) must be made in writing to the Office of the United States trustee and such requests must be supported by an affidavit of the requestor attached to the request. The United States trustee may adopt additional written guidelines for the regulation of meetings of creditors.

(d) Waiver of Personal Appearance

The court may grant a waiver of personal appearance, other than a request for telephonic appearance, on the motion of the debtor(s) for good cause shown after notice given to all interested parties and hearing.

(1) Motions for waiver of personal appearance must be supported by affidavit or declaration under penalty of perjury setting forth in particular the facts that preclude personal appearance.

(2) The motion must set forth any alternative means reasonably available by which the trustee or any interested party may examine the debtor and obtain responses under oath, including, but not necessarily limited to, methods prescribed by Rules 26-36, Federal Rules of Civil Procedure.

(3) Motions for waiver of personal appearance must be served on the trustee and transmitted to the U.S. trustee.

(4) The court may, in its discretion, order the debtor to provide responses to any matter subject to inquiry by the trustee or any interested party by deposition upon written questions under Rule 31, Federal Rules of Civil Procedure. For the purposes of this paragraph, only the trustee, the U.S. trustee and those interested parties actually appearing at the meeting of creditors will be considered a "party" within the scope of Rule 31.

Related Provisions:

11 U.S.C. § 341	Meetings of Creditors and Equity Security Holders
11 U.S.C. § 343	Examination of the Debtor
11 U.S.C. § 521	Debtor's Duties
FRCP 26-36	Depositions and Discovery
FRBP 1007	Lists, Schedules, and Statements; Time Limits
FRBP 1017	Dismissal or Conversion of Case; Suspension
FRBP 2002	Notices to Creditors, Equity Security Holders, United States, and United States Trustee
FRBP 2003	Meeting of Creditors or Equity Security Holders
FRBP 4002	Duties of Debtor
FRBP 9013	Motions: Form and Service
AK LBR 2002-1	Notices
AK LBR 9013-1	Briefs; Memoranda
AK LBF 4	Certificate of No Objections
AK LBF 7	Bankruptcy Court Calendar Request
AK LBF 24	Notice of Hearing

RULE 2016-1
COMPENSATION OF TRUSTEES AND PROFESSIONAL FEES

(a) General

Except as otherwise specifically provided in this rule, requests for compensation and reimbursement under § 330 of the Code must comply with the guidelines promulgated by the Office of the United States Trustee.

(b) Trustee

(1) Applications for compensation for services as trustee must state the maximum amount payable to the trustee as compensation under § 326(a) of the Code.

(2) In each Chapter 13 case that is dismissed prior to confirmation of a plan, the standing trustee may deduct, after payment of court fees and costs and other § 503(b) administrative expenses, the sum of \$300.00 and an additional amount of \$60.00 for each hearing or meeting of creditors beyond the initial meeting that the trustee attended, from funds available for return to the debtors. Such an award may not exceed the amount specified in Rule 2002(a)(6), Federal Rules of Bankruptcy Procedure, without a separate application. The debtor may object to such an award within ten (10) days of the entry of the order dismissing the case.

(c) Attorney or Accountant for Trustee, Debtor in Possession, Debtor, Creditors' Committee, or Professional Under 11 U.S.C. § 503(b)(4)

(1) Applications for compensation and reimbursement under § 330(a) of the Code must be preceded by an order authorizing the employment of the professional. Unless otherwise specifically authorized by statute, rule or order of the court, an application for allowance of professional fees must be filed before payment of professional fees, including cases where employment of a professional on a contingency fee or percentage basis has been authorized by the court.

(2) Requests for compensation and reimbursement under §§ 330(a) and 503(b)(4) of the Code must contain a statement that the compensation sought will not be shared with another person except as provided in § 504 of the Code.

(3) Applications for compensation for services as attorney, accountant or other professional for the trustee, debtor in possession, debtor, creditors' committee, or under § 503(a)(4) of the Code must include the following detail:

(A) A statement that all the services for which compensation is requested were performed for or on behalf of the trustee, debtor in possession, debtor, or creditors' committee, and not on behalf of a creditor or any other entity, except in the case of a professional seeking compensation under § 503(b)(4) of the Code;

(B) A separate itemization of each service rendered, including the date for each item, the actual time spent on each item and the charge for such item. Each item of service must be sufficiently descriptive to enable the court to determine whether the service was reasonable. An entry such as "research" or "telephone call" will not be sufficient. The items should not be aggregated together; rather, the time spent and the description of individual tasks should be distinctly identified;

(C) Use of minimum time increments of no larger than 1/10 of an hour;

(D) A statement of the hourly billing rate of each professional person, legal assistant or employee for whom compensation is sought; and

(E) An itemization of costs by category and method of computation.

(4) Applications by an attorney or accountant for a debtor must in addition show that all services performed were in connection with the performance by the debtor of the duties prescribed by the Code, were otherwise beneficial to the debtor's estate or were rendered pursuant to an order of the court. Services on behalf of the debtor in discharge and dischargeability actions are not compensable from the estate.

(5) Except as provided in paragraph (h)(2) of this Rule, applications for fees and expenses must (1) be categorized to group identifiable projects separately, (2) include a narrative description of major projects, and (3) include a description of the bill attributable to all categories. For example, representation of a party in an adversary proceeding, a major contested matter, or plan formulation, are categories that can be separately reported on the fee application. This categorization will enable the court to more readily determine the reasonable value of the fees and expenses sought.

(6) Applications must be noticed by the applicant in accordance with AK LBR 2002-1(a). The court may, in its discretion, order a hearing even if no objections are filed. Applicants must keep themselves informed as to the progress of administration of the estate so that notice may be included in the notice of the final accounting, or so that notice can be sent within the time allowed after confirmation of a plan in a case under chapter 9 or 11.

(d) Interim Fees

(1) No interim fees or expenses for attorneys or accountants will be paid in a chapter 7 proceeding, unless the trustee certifies or the applicant can clearly demonstrate that interim payment would not prejudice any party having a higher or equal priority or claim to the funds.

(2) The court may, on its own motion or at the request of a party in interest, order that a percentage of the fees requested in an interim application that are found to be reasonable will not be disbursed at the time of approval of the interim application but will instead be held back pending the court's action on a final fee application. The amounts held back may be applied for as part of the final fee application. The amounts held back on interim fee applications may not be

placed in escrow and any payment allowed as part of the final fee award will depend, among other factors, upon the assets available for payment at that time.

(e) Pre-Petition Retainers

A pre-petition retainer is considered property of the estate being administered, must be segregated in a separate trust account, and may not be applied to fees or costs incurred after the filing of the petition without an order of the court. A professional holding a pre-petition retainer must give notice that such professional intends to apply the retainer to post-petition fees and disbursements, in conjunction with its fee application. A retainer may not be applied without a court order approving an application for interim or final compensation. The court may review the amount and circumstances of any retainer and may order a refund to the estate or such other action as appropriate.

(f) Objections

Any party objecting to the allowance of any administrative expense must file with the court, transmit to the United States trustee and serve on the applicant, trustee, debtor, and any creditors' committee a written objection within the time set forth in the notice.

(g) Time of Payment

Unless otherwise ordered, all administrative expenses allowed by the court will be paid by the trustee with the final distribution, or upon confirmation of a Plan in a case under chapters 9, 11 or 12.

(h) Applications in Chapter 12 and 13 Cases

(1) Except as provided in paragraph (h)(2), below, attorney's fees must be applied for before allowance. The trustee may, without any personal liability to debtor or debtor's attorney, pay creditors and trustee's fees in advance of paying the administrative expense for debtor's attorney's compensation claim, if the debtor's attorney claiming compensation has not filed an application for compensation. When the trustee is served with notice of debtor's attorney's compensation application, however, the trustee must defer paying a lower priority creditor under § 1226(b)(1) or § 1326(b)(1) of the Code until the court has ruled on the fee application. Attorney's fees for a chapter 12 or 13 debtor will not be allowed in excess of the amount designated in the chapter 12 or 13 plan absent a showing of extreme or unusual circumstances by the applicant.

(2) In a case under chapter 13, no application for allowance of attorney's fees need be filed and allowance of such fees and expenses is deemed approved, provided:

(A) counsel has filed an itemized statement of fees and costs conforming to (c)(3)(B), (C), (D), and (E) of this Rule, and served the chapter 13 trustee and transmitted to the United States trustee a copy of the statement;

(B) the fees and costs in a case under chapter 13 sought do not exceed the sum set forth in paragraph 2(a) of AK LBF 5 and the plan analysis attached to AK LBF 5; and

(C) in consumer (non-business) cases, the total fees to be paid, including the application of any prepetition retainer paid, does not exceed \$1,750.00 and costs, exclusive of any filing fees paid to the clerk of the court, do not exceed \$200.00; or

(D) in business (non-consumer) cases, the total fees to be paid, including the application of any prepetition retainer paid, does not exceed \$2,750.00 and costs, exclusive of any filing fees paid to the clerk of the court, do not exceed \$300.00.

The provisions of this paragraph notwithstanding, if the proposed chapter 13 plan does not provide for payment of allowed claims in full, any party in interest, including the United States trustee, may, at any time prior to confirmation of the plan, object to allowance of fees under this paragraph by filing a written objection, serving a copy thereof on the debtor, counsel for the debtor and the trustee, with transmittal to the United States trustee. In the event such objection is filed and served, an application for allowance of fees must be filed, noticed and approved before any payment thereof is made.

(i) Applications in Chapter 7 Cases

(1) Final applications for professional fees in chapter 7 cases must be filed and transmitted to the U.S. trustee not later than seven days after the Trustee's Final Report Before Distribution is transmitted to the U.S. trustee.

(2) The provisions of paragraph (c)(3) notwithstanding, the final application may include an estimate for services to be rendered by the professional in connection with closing out the estate; provided, however, that

- ◆ the applicant must file with the court, serve on the trustee, and transmit to the U.S. trustee, a statement of the actual fees incurred, and
- ◆ no allowance for fees for professional services rendered after the date the final application is filed in excess of \$500 will be allowed without substantiation as provided in paragraph (c)(3).

(3) Notwithstanding any other provision in these rules, in the event of an objection to the Trustee's Final Report Before Distribution, other than an objection to the fee application, the court may allow payment of fees in an amount greater than the amount set forth in the Trustee's Final Report Before Distribution.

Related Provisions:

11 U.S.C. § 326

Limitation on Compensation of Trustee

11 U.S.C. § 327

Employment of Professional Persons

11 U.S.C. § 328	Limitation on Compensation of Professional Persons
11 U.S.C. § 329	Debtor's Transactions with Attorneys
11 U.S.C. § 330	Compensation of Officers
11 U.S.C. § 331	Interim Compensation
FRBP 1006(b)(3)	Filing Fee — Postponement of Attorney's Fees
FRBP 2002(a)	Twenty-Day Notices to Parties in Interest
FRBP 2013	Public Record of Compensation of Trustees, Examiners, and Professionals
FRBP 2014	Employment of Professional Persons
FRBP 2016	Compensation for Services Rendered and Reimbursement of Expenses
FRBP 2017	Examination of Debtor's Transactions with Debtor's Attorney
FRBP 9034	Transmittal of Pleadings, Motion Papers, Objections, and Other Papers to the United States Trustee
AK LBR 2002-1	Notices
AK LBR 2016-2	Compensation of Debtor, Officers, Directors, Shareholders, Partners, Managers and Members
AK LBR 2016-3	Administrative Expenses
AK LBF 7	Bankruptcy Court Calendar Request
AK LBF 15	Notice of Time for Filing Objection to Application for Fees
AK LBF 16	Notice of Application to Employ Creditor Attorney/Accountant by Debtor in Possession

RULE 3022-1

POSTCONFIRMATION REPORTS/CLOSING OF THE CASE

(a) Postconfirmation Reports

Unless the court orders otherwise, not later than 30 days after the end of the calendar quarter in which the confirmation order is entered and not later than 30 days after the end of each calendar quarter thereafter until entry of the final decree, unless a motion for final decree has been filed as provided in subdivision (b) of this rule, the proponent of the plan must file and transmit to the United States trustee a progress report on the action taken, progress made toward completion of administration of the estate, and disbursements made under the confirmed plan during the reporting period. Each report will substantially conform to AK LBF 29.

(b) Motion for Entry of Final Decree

Notwithstanding that the plan may not have been substantially consummated, the proponent of the plan shall move the court for entry of a final decree when:

- (1) the order of confirmation has become final,
- (2) all fees required to be paid under 28 U.S.C. § 1930 have been paid, and
- (3) all contested matters, adversary actions or other proceedings requiring action by the court are completed.

Such motion for entry of the final decree will conform substantially to AK LBF 30.

(c) Notice

The moving party must give twenty (20) days notice of the motion for entry of final decree in the form substantially conforming to AK LBF 31 to all persons on the master mailing list maintained by the clerk.

Related Provisions:

11 U.S.C. § 350	Closing and Reopening Cases
11 U.S.C. § 1101	Definitions for this chapter [11]
11 U.S.C. § 1142	Implementation of Plan
11 U.S.C. § 1143	Distribution
FRBP 3022	Final Decree in Chapter 11 Reorganization Case
AK LBF 29	Postconfirmation Progress/Final Report

RULE 4001-2
USE OF CASH COLLATERAL AND
OBTAINING POST PETITION CREDIT

(a) Motions to Use Cash Collateral

Motions by the debtor in possession or trustee for authorization to use cash collateral must contain, as a minimum, the following information:

- (1) Identity of the creditor whose cash collateral is to be utilized and the relationship, if any, of the creditor to the debtor.
- (2) The nature or source of the cash collateral.
- (3) The estimated amount of cash collateral to be used.
- (4) A 90-day cash flow projection segregating cash receipts from cash collateral from all other sources of cash receipts.
- (5) The balance owed to the creditor, as of the date the petition was filed, including any accrued, unpaid interest, cost or fees as provided in the agreement.
- (6) An estimate of the amounts of any postpetition interest, costs and fees the creditor would be entitled to recover under § 506(b) of the Code.
- (7) If the cash collateral is rent, the amount of the gross and net rent realized each month, and the fair market value of the property from which the rent emanates.
- (8) If the collateral is receivables, an accounts receivable aging statement.
- (9) If the collateral is inventory, current book or market value, whichever is lower, of the inventory.
- (10) For any other collateral, the fair market value of the collateral.
- (11) The method or means by which the interests of the creditor are to be adequately protected.
- (12) A statement of whether or not the debtor proposes to grant any provision contained in subsection (f) and, if so, identify any such provision.

(b) Cash Collateral Utilization Agreements.

Motions or applications for the approval of an agreement for use of cash collateral must set forth in the body of the motion or application the information required by paragraphs (a)(1) through (a)(10), inclusive, and whether or not the agreement contains any provision contained in subsection (f) and, if so, identify any such provision.

(c) Postpetition Financing

Motions by the debtor in possession or trustee for authorization to obtain postpetition credit or for approval of a postpetition financing agreement must contain, as a minimum, the following information:

- (1) Identity of the lender and relationship, if any, of the lender to the debtor.
- (2) The amount of credit to be obtained or, in the case of line of credit financing, the maximum amount the lender is to advance.
- (3) If funding is to be incremental, timing of funding or method by which funding is to be determined.
- (4) A 90-day cash flow projection showing all sources of cash receipts other than the amounts to be borrowed.
- (5) If the lender is a prepetition creditor the following information:
 - (A) the balance owed to the creditor, as of the date the petition was filed, including any accrued, unpaid interest, cost or fees as provided in the agreement;
 - (B) If the lender is secured by receivables, an accounts receivable aging statement;
 - (C) If the lender is secured by inventory, current book or market value, whichever is lower, of the inventory;
 - (D) If the lender is secured by real property, the current fair market value of the property and, if income producing, the gross and net rents produced by the property; and
 - (E) If the lender is secured by any other property, the fair market value of the property.
- (6) A description of the collateral, if any, to secure the postpetition financing.

- (7) The current fair market value of the collateral, if any, to secure the post petition financing.
- (8) If any other entity has, or claims, a security interest in the collateral to secure the postpetition financing, set forth:
 - (A) Identity of the entity, including any relationship to the debtor;
 - (B) The balance owed that entity;
 - (C) Whether the interest of that entity is to be subordinated to the postpetition financing and if so:
 - (i) whether the subordinated entity has consented; or
 - (ii) in the absent of consent, how the interest of that entity is to be adequately protected.
- (9) Whether or not the financing agreement contains any provision contained in subsection (f) and, if so, identify any such provision.

(d) Motions Heard on Shortened Time

- (1) Unless otherwise ordered by the court, emergency motions or applications for interim relief made under subsections (a), (b), and (c), may be heard upon 24 hours notice by telephonic, facsimile, or personal delivery to the entities identified in the applicable provision of Rule 4001, Federal Rules of Bankruptcy Procedure.
- (2) All requests for hearings on shortened time, must set forth with specificity:
 - (A) the immediate and irreparable harm the estate will suffer if relief is not immediately granted;
 - (B) the extent of the relief required to prevent such immediate and irreparable harm to the estate; and
 - (C) contain as much of the information required by subsection (a), (b), or (c), as applicable, as may be necessary to establish the necessity to avoid immediate and irreparable harm to the estate pending a final hearing.
- (3) Unless otherwise specifically ordered by the court, any interim order entered under this subsection will expire not later than twenty (20) days after the motion under subsection (a), (b), or (c) is filed.

- (4) The court may, at its discretion, hold emergency hearings telephonically. In such cases, the moving party will be responsible for providing the court with the telephone numbers at which interested parties, or their representatives, may be reached.

(e) Provisions Normally Approved

The court will normally approve inclusion of the following provisions in any order or agreement for the use of cash collateral or any postpetition financing agreement.

- (1) Withdrawal of consent to use cash collateral or termination of further financing, upon occurrence of a default or conversion to chapter 7.
- (2) Securing any postpetition diminution in the value of the secured party's collateral with a lien on postpetition collateral of the same type as the secured party had prepetition, if such lien is subordinated to the compensation and expense reimbursement allowed to any trustee thereafter appointed in the case.
- (3) Securing new advances or value diminution with a lien on other assets of the estate, but only if the lien is subordinated to all the expenses of administration of a superseding chapter 7 case.
- (4) Reservation of rights under Bankruptcy Code § 507(b), unless the provision calls for modification of the Code's priorities in the event of conversion to chapter 7.
- (5) Reasonable reporting requirements.
- (6) Reasonable budgets and use restrictions.
- (7) Expiration date for the stipulation.

(f) Other Provisions

Inclusion of any of the following provisions in any order or agreement for the use of cash collateral may be scrutinized by the court even in the absence of an objection by a party in interest.

- (1) Cross-collateralization clauses that secure prepetition debt by postpetition assets in which the secured party would not otherwise have a security interest by virtue of its prepetition security agreement.
- (2) Provisions or findings of fact that bind the estate or all parties in interest with respect to the validity, perfection or amount of the secured party's lien or debt.
- (3) Provisions or findings of fact that bind the estate or all parties in interest with respect to the relative priorities of the secured party's lien and liens held by persons

who are not party to the agreement.

- (4) Clauses that prime the liens and/or security interests of secured creditors who are not parties to the agreement, unless consented to by the affected creditor.
- (5) Waivers of Bankruptcy Code § 506(c), except to the extent effective only during the period in which the debtor in possession or trustee is authorized to use cash collateral or borrow funds.
- (6) Provisions that preclude a future trustee with a duty to care for, preserve, and/or liquidate collateral from recovering the expenses of administration.
- (7) Provisions that characterize any postpetition payments as payments of interest, fees, or costs on prepetition obligations.
- (8) Provisions that operate specifically or as a practical matter to divest the debtor, or any other party in interest, of any discretion in the formulation of a plan or administration of the estate, or limit access to the court to seek any relief under applicable provisions of law.
- (9) Releases of liability for the creditor's prepetition torts, breaches of contract, or lender liability, as well as releases of prepetition or postpetition defenses and/or counterclaims.
- (10) Waivers of avoidance actions.
- (11) Provisions that would include the recovery from avoidance actions as adequate protection or part of the secured creditor's collateral.
- (12) Automatic relief from the automatic stay of Bankruptcy Code § 362(a) upon default, conversion to chapter 7, or the appointment of a trustee.
- (13) Adequate protection provisions that create liens on claims for relief arising under the Bankruptcy Code.
- (14) Waivers of the right to move for a court order under Bankruptcy Code § 363(c) (2) (B) authorizing the use of cash collateral in the absence of the secured party's consent.
- (15) Carve outs for administrative expenses that do not treat all professionals equally or on a pro rata basis.
- (16) Provisions that shorten the period of limitations any party in interest (including a successor trustee) for bringing claims or causes of action against the lender or secured creditor.

- (17) A finding without testimony to the effect that in consenting to the use of cash collateral or postpetition financing, the secured creditor or lender is acting in good faith.
- (18) Waivers of the procedural requirements for foreclosure or repossession mandated under applicable nonbankruptcy law.
- (19) Provisions applicable in the event of a dispute under the agreement that place venue in a foreign jurisdiction.
- (20) Provisions applicable in the event of a dispute or default under the agreement wherein the debtor waives service of process, the doctrine of forum non conveniens, notice and hearing, and the right to a jury trial.
- (21) Findings of fact on matters extraneous to the approval process.

(g) Notice of Final Hearing

Notice of the final hearing on a motion for the use of cash collateral under subsections (a) or (b), or to obtain credit under subsection (c), must be given in form substantially conforming to AK LBF 35 or AK LBF 36, as applicable, together with a copy of the motion if not previously served, to the persons specified in Rule 4001, Federal Rules of Bankruptcy Procedure, and any secured creditors whose rights or interests may be directly affected if the requested relief is granted, and such other persons as the court may direct.

Related Provisions:

11 USC § 101(31)	Insiders
11 USC § 361	Adequate Protection
11 USC § 362	Automatic Stay
11 USC § 363	Use, Sale or Lease of Property
11 USC § 364	Obtaining Credit
11 USC § 506	Determination of Secured Status
11 USC § 507	Priorities
FRBP 4001	Relief From Automatic Stay; Prohibiting or Conditioning the Use, Sale, or Lease of Property; Use of Cash Collateral; Obtaining Credit; Agreements
FRBP 9014	Contested Matters
AK LBR 9013-1	Briefs; Memoranda
AK LBF 7	Bankruptcy Court Calendar Request
AK LBF 35	Notice of Cash Collateral Hearing
AK LBF 36	Notice of Hearing on Motion to Obtain Credit

RULE 4003-1
OBJECTIONS TO CLAIMS OF EXEMPTION

(a) Hearing

A party filing an objection to the claim of exemptions under Rule 4003(b), Federal Rules of Bankruptcy Procedure, must submit a calendar request requesting a hearing at the same time the objection is filed with the court.

(b) Notice of the Hearing

Within two (2) days of receiving the hearing date from the court, the party filing the objection to exemptions must give notice of the hearing date conforming to AK LBF 34 to the trustee and all parties on whom the objection to exemptions must be served in accordance with Rule 4003, Federal Rules of Bankruptcy Procedure.

Related Provisions:

FRBP 4003	Exemptions
AK LBF 7	Bankruptcy Court Calendar Request
AK LBF 34	Notice of Hearing on Objections to Claim of Exemptions

RULE 9013-2
MOTION PRACTICE

(a) Motion for Shortened Time

A motion for shortened time must conform to Rule 9006(c), Federal Rules of Bankruptcy Procedure and the party making the motion must serve the motion on such other parties as the court may direct.

(b) Motion to Amend Findings or for New Trial, Rehearing, or Reconsideration

(1) A party filing a motion for rehearing or reconsideration must do so within the time specified in Rule 9023, Federal Rules of Bankruptcy Procedure.

(2) Unless otherwise provided by the Code or Federal Rules of Bankruptcy Procedure or ordered by the court, no opposition to a motion to amend or make additional findings, for new trial, rehearing or reconsideration may be filed unless requested by the court. The court will not amend or make additional findings, or grant a new trial, rehearing, or reconsideration without first requesting opposition be filed. No reply to an opposition to a motion to amend or make additional findings or for new trial, rehearing, or reconsideration may be filed unless requested by the court.

(3) Unless the court otherwise orders, a motion to amend or make additional findings, for new trial, rehearing, or reconsideration will be submitted to the court for decision on the briefs without oral argument.

(4) Unless the court by order extends the time, if a motion to amend or make additional findings, for new trial, rehearing, or reconsideration has been pending before the court without decision for a period of 30 days after the motion was filed, the last brief requested by the court has been filed, or oral argument on the motion is heard, whichever is later, the motion will be deemed denied without further order of the court.

(5) This subsection applies to motions for relief from judgment or order under Rule 9024, Federal Rules of Bankruptcy Procedure, if the motion is made within the time specified in Rule 8002(b), Federal Rules of Bankruptcy Procedure.

(c) *Ex Parte* Motions

(1) All *ex parte* motions must:

(A) be served on all parties affected by the motion, or the party's representative, at or before the time the motion is filed with the court, or contain a statement as to why it should not be so served;

(B) contain a statement of the authority for the court to grant the motion without notice and hearing;

(C) if applicable, contain a statement of whether the moving party has conferred with the party(ies) affected by the motion and whether or not the motion is opposed; and

(D) be accompanied by a proposed order that complies with the requirements of AK LBR 9021-1.

(2) The court may, in its discretion, require a hearing, which may be telephonic sitting in chambers, before ruling on the motion.

(d) Non-noticed Motions

In all matters in which a separate notice stating the last day by which a response is required is not otherwise given under these rules or the Federal Rules of Bankruptcy Procedure, the body of the motion must contain a statement of the last day to respond under applicable rule, in substantially the following form:

“NOTICE: If you oppose this motion, you must file a written opposition with the Clerk of the Bankruptcy Court, 605 West Fourth Avenue, Room 138, Anchorage, Alaska 99501-2296 and serve a copy on the undersigned on or before (insert date).”

Related Provisions:

FRBP 7052	Findings by the Court
FRBP 8002	Time for Filing Notice of Appeal
FRBP 9006	Time
FRBP 9023	New Trials; Amendment of Judgments
FRBP 9024	Relief from Judgment or Order
AK LBR 9013-1	Briefs; Memoranda
AK LBR 9021-1	Orders, Findings, Conclusions, Judgments

(Name of Attorney)

(Name of Firm)

(Address)

(Telephone)

(Facsimile)

AK LBF 5

(Attorney for _____)

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF ALASKA

In re

)

) Case No. _____

)

)

CHAPTER 13 PLAN

Debtor(s).

)

[Dated _____]

)

The debtor(s) propose the following Chapter 13 plan:

1. **DEBTOR'S PAYMENTS TO TRUSTEE**: The debtor(s) shall pay to the trustee:

(a) monthly payments in the amount of \$ _____ for _____ months, commencing on the _____ day of _____, 19__ (not later than 30 days after filing the Plan) and continuing on the same day of each month thereafter;

(b) Permanent Fund Dividends (for _____ number of years) received during the term of the Plan (if not included in disposable income); and

(c) additional payments of \$ _____ each (_____ in number), totaling \$ _____, to be paid as follows:

2. **TRUSTEE'S DISTRIBUTIONS TO CREDITORS**: From the payments so received, the trustee shall make disbursements in the following order (unless otherwise noted in paragraph 2(f)):

(a) The **ALLOWED EXPENSES OF ADMINISTRATION** required by 11 U.S.C. § 507(a)(1), including 10%, or the percentage set from time to time by the Attorney General of the United States, pursuant to 28 U.S.C. § 586(e), to the trustee and \$ _____ in estimated attorneys fees and costs for the debtor's attorney.

(b) CURE OF ARREARAGES ON SECURED CLAIMS WHICH ARE NOT MODIFIED: Arrearages on secured creditor's claims which are duly filed and allowed, and which are not modified, estimated as follows:

(i) Residential Mortgage:

<u>Creditor/ Security</u>	<u>Estimated Arrearage Amt</u>	<u>Number of Payments</u>	<u>Estimated Payment Amt</u>	<u>Interest Rate</u>
-------------------------------	------------------------------------	-------------------------------	----------------------------------	--------------------------

(ii) Other Secured Claims:

<u>Creditor/ Security</u>	<u>Estimated Arrearage Amt</u>	<u>Number of Payments</u>	<u>Estimated Payment Amt</u>	<u>Interest Rate</u>
-------------------------------	------------------------------------	-------------------------------	----------------------------------	--------------------------

(c) MODIFIED SECURED CLAIMS: Distributions to secured creditors whose claims are duly filed and allowed, but which are modified, estimated as follows:

<u>Creditor/ Security</u>	<u>Value of Collateral</u>	<u>Number of Payments</u>	<u>Estimated Payment Amt</u>	<u>Interest Rate</u>
-------------------------------	--------------------------------	-------------------------------	----------------------------------	--------------------------

[This paragraph 2(c) shall address the repayment terms of all secured claims which are not addressed under paragraph 2 (b) above or under paragraph 3 below. These "modified secured claims" are all those held by creditors whose rights are modified under applicable bankruptcy law. The allowed claims of each of the creditors listed in paragraph 2(c) shall be allowed as a secured claim in the amount of the value of the security and will be paid in installments as shown until the balance, with interest as stated, has been paid. The remainder of the amount owing shall be allowed as a general unsecured claim and shall be paid under the provisions of paragraph 2(e) if a proof of claim is duly filed and allowed.]

(d) ALLOWED PRIORITY UNSECURED CLAIMS in the order and in the amount prescribed by 11 U.S.C. § 507(a)(2) - (a)(8) including the following estimated tax claims:

<u>Tax Creditor</u>	<u>Type of Tax</u>	<u>Year</u>	<u>Amount</u>
---------------------	--------------------	-------------	---------------

Debtor(s) will initial the following correct answer:

____ Yes, I have filed all required tax returns.

____ No, I have not filed all required tax returns.

(e) To UNSECURED NON-PRIORITY CLAIMS which are duly filed and allowed, the balance of the debtor's plan payments shall be distributed pro-rata.

(f) ALTERNATE PAYMENT INSTRUCTIONS TO TRUSTEE:

3. SECURED CLAIMS NOT MODIFIED: The following creditors' claims are fully secured, shall not be modified, shall be paid directly by the debtor(s) outside the Plan pursuant to the original contract terms, and shall receive no distributions under Paragraph 2 (except those distributions set out in paragraph 2(b) above):

(a) Residential Mortgage:

Creditor/Security

Estimated
Balance Owed

Present
Monthly Payment

(b) Other:

Creditor/Security

Estimated
Balance Owed

Present
Monthly Payment

4. **SECURED PROPERTY SURRENDERED:** The secured property described below will be surrendered to the following named creditors, and any duly filed and allowed unsecured claim resulting from such surrender shall be paid under Paragraph 2(e):

5. **EXECUTORY CONTRACTS:** Except as provided above, the following executory contracts and unexpired leases of the debtor(s) are assumed or rejected as noted below. If rejected, the debtor(s) shall surrender any collateral or leased property and any duly filed and allowed unsecured claim for damages shall be paid under paragraph 2(e):

Contract

Assumed or Rejected

6. **PLAN ANALYSIS:** The attached plan analysis is accurate to the best of our knowledge. If there are discrepancies between the Plan and the Plan Analysis, the provisions of the Plan, as confirmed, control.

7. **RETENTION OF SECURITY INTERESTS and REVESTING OF PROPERTY:** Secured creditors shall retain their liens until their allowed secured claims have been paid. Except as provided in this plan or in the order confirming the plan, upon confirmation of this plan all of the property of the estate shall vest in the debtor(s) free and clear of any claim or interest of any creditor provided for by this plan pursuant to 11 U.S.C. § 1327.

8. **PLAN CHANGES:** The court may after hearing, upon such notice as the court may designate, increase or reduce the amount or the time for payment where it appears that circumstances so warrant.

DATED _____, 19____.

Attorney for Debtor(s)

SIGNED UNDER PENALTY OF PERJURY.

Debtor

Debtor

PLAN ANALYSIS

(Numerical References are to Plan Paragraphs)

Monthly Income and Expenses:

Monthly Income from Schedule I \$ _____

Monthly Expenses from Schedule J \$ _____

Debtor(s) Payments to Trustee:

1(a) \$ _____ (Mo. Pymt.) x _____ (No. Pymts) = \$ _____

1(b) \$ _____ (Perm. Fund) x _____ (No. Years) = \$ _____

(If not in Disposable Income)

1(c) \$ _____ (Add'l Pymts) x _____ (No. Pymts) = \$ _____

TOTAL PAYMENTS (Life of Plan): \$ _____

Estimated Distributions by Trustee:

2(a) Trustee's Commission (10% of total) \$ _____

2(a) Unpaid Attorney's Fees and Costs \$ _____

2(a) Other Administrative (if known) \$ _____

2(b) Total Arrearages Secured Claims (Not Modified) \$ _____

(i) Residential Mortgage \$ _____

(ii) Other \$ _____

2(c) Total Distributions Modified Secured Claims \$ _____

2(d) Priority: Taxes \$ _____

Other \$ _____

2(e) Total Distributions Unsecured Claims \$ _____

TOTAL DISTRIBUTIONS: \$ _____

LIQUIDATION ANALYSIS

(Insert Amounts from Bankruptcy Schedules for A, B, D, and E, Below)

A. Non Exempt Equity: in real property \$ _____
in personal property \$ _____

B. Value of Property Recoverable Under Avoiding Powers \$ _____

C. TOTAL ESTATE EQUITY (sum of A & B above): \$ _____

D. Total Priority Debt \$ _____

E. Total Unsecured Debt \$ _____

F. Estimated Chapter 7 Administrative Expenses \$ _____

G. Estimated Plan Dividend (Unsecured Creditors) _____ %

H. Estimated Chapter 7 Dividend (Unsecured Creditors) _____ %

(Name of Attorney)
(Name of Firm)
(Address)
(Telephone)
(Telefax)

AK LBF 29

Attorney for Debtor(s)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF ALASKA

In re	)	Case No.
	)	Chapter: 11
(Names of Debtor(s)))	
	)	POSTCONFIRMATION
Debtor(s)	)	PROGRESS/FINAL REPORT
_____)	

Pursuant to AK LBR 3022-1, debtor(s) submit its (Select *e.g.*, First, Second, Final) post confirmation progress report.

1. On _____, 199__, an Order was entered confirming the Plan of Reorganization dated _____, 199__; said Order became final _____, 199__ (or, if applicable, an appeal was filed from said Order on _____, 199__ and said appeal is still pending).
2. The Plan became effective on _____, 199__ (or, if applicable, the Plan has not become effective pending determination of the appeal from the confirmation order).
3. Action taken and progress made toward completion of administration of the estate:
(Describe actions taken, such as fee applications made or heard)
4. All fees required by 28 U.S.C. § 1930 have been paid except:

5. The following matters concerning administration of the estate are still pending:
(Describe any pending adversary actions, contested matters or matters requiring action by the bankruptcy court — if none, enter NONE)

Dated:

(Name of Attorney Firm)

By: _____
Attorney for Debtor(s)

CERTIFICATION OF DISBURSEMENTS MADE

I, _____, hereby certify under penalty of perjury that for the calendar quarter ending _____, (name of debtor) disbursed \$ _____.

Dated: _____

(If debtor is an individual)

(Name)

(If Debtor is Corporation, partnership or LLC)

(Debtor's Name)

By: _____
(Name and Title)

(Name of Attorney)
(Name of Firm)
(Address)
(Telephone)
(Telefax)

AK LBF 34

(Attorney for _____)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF ALASKA

In re	)	Case No.
	)	Chapter:
(Debtors' Names))	
	)	NOTICE OF HEARING ON OBJECTION
Debtors	)	TO CLAIM OF EXEMPTIONS
_____)	

NOTICE IS HEREBY GIVEN THAT a hearing on the Objection to Claim of Exemptions will be held at _____ o'clock ____ m. on _____, 199 __*, at _____.

Your rights may be affected. You should read the objection to claim of exemptions carefully and discuss it with your attorney, if you have one in this bankruptcy. (If you do not have an attorney, you may wish to consult one.)

FURTHER TAKE NOTICE THAT should you wish to OPPOSE the Objection to Claim of Exemptions you must file with the Office of the Clerk of the above-entitled court at 605 West Fourth Avenue, Suite 138, Anchorage, Alaska 99501-2296 an objection in writing and serve a copy on the trustee _____ and the undersigned on or before _____, 199 __**.

SHOULD YOU FAIL TO SO OBJECT OR ATTEND THE HEARING THE COURT MAY ENTER AN ORDER SUSTAINING THE OBJECTION TO CLAIM OF EXEMPTIONS WITHOUT FURTHER NOTICE.

If you cannot attend the hearing in person, you may call the U.S. Bankruptcy Court In-Court Deputy Clerk at (907) 271-2655, ext. 2640, at least three (3) days in advance of the hearing to request telephonic attendance

Dated:

(Name of Attorney Firm)

By: _____
Attorney for _____

* Unless otherwise ordered, not less than 20 days after mailing notice.

** Unless otherwise ordered, if the noticed hearing date is 20 or more days, not less than 15 days after service; in all other cases 2 days before the hearing date.

09/14/99

(Name of Attorney)

(Name of Firm)

(Address)

(Telephone)

(Fax)

(Attorney for _____)

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ALASKA**

In re

(Name of Debtor(s))

Debtor(s).

Case No.

Chapter:

NOTICE OF CASH COLLATERAL HEARING

NOTICE is hereby given that the undersigned will bring on for hearing the motion/agreement for use of cash collateral by and between debtor and (name of creditor), on (*) _____, at _____ o'clock __m. at _____.

Your rights may be affected. You should read these papers and the motion carefully and discuss them with your attorney, if you have one in this bankruptcy. (If you do not have an attorney, you may wish to consult one.)

PLEASE TAKE NOTICE that the motion/agreement for the use of cash collateral may propose one or more of the provisions enumerated in AK LBR 4001-2(f) (check all that apply):

- ☐ Does not contain any provision enumerated in AK LBR 4001-2(f).
- ☐ Cross-collateralization clause that secures prepetition debt by postpetition assets in which the secured party would not otherwise have a security interest by virtue of its prepetition security agreement.
- ☐ Provision or findings of fact that bind the estate or all parties in interest with respect to the validity, perfection or amount of the secured party's lien or debt.
- ☐ Provision or findings of fact that bind the estate or all parties in interest with respect to the relative priorities of the secured party's lien and liens held by persons who are not party to the agreement.
- ☐ Primes the liens and/or security interests of secured creditors who are not parties to the agreement, unless consented to by the affected creditor.
- ☐ Waives Bankruptcy Code § 506(c), except to the extent effective only during the period in which the debtor in possession or trustee is authorized to use cash collateral or borrow funds.
- ☐ Precludes a future trustee with a duty to care for, preserve, and/or liquidate collateral from recovering the expenses of administration.
- ☐ Characterizes any postpetition payments as payments of interest, fees, or costs on prepetition obligations.
- ☐ Operates specifically or as a practical matter to divest the debtor, or any other party in interest, of any discretion in the formulation of a plan or administration of the estate, or limit access to the court to seek any relief under applicable provisions of law.
- ☐ Releases liability for the creditor's prepetition torts, breaches of contract, or lender liability, as well

- ☐ as releases prepetition or postpetition defenses and/or counterclaims.
- ☐ Waives avoidance actions.
- ☐ Includes the recovery from avoidance actions as adequate protection or part of the secured creditor's collateral.
- ☐ Automatic relief from the automatic stay of Bankruptcy Code § 362(a) upon default, conversion to chapter 7, or the appointment of a trustee.
- ☐ Adequate protection provisions that create liens on claims for relief arising under the Bankruptcy Code.
- ☐ Waives the right to move for a court order under Bankruptcy Code § 363(c) (2) (B) authorizing the use of cash collateral in the absence of the secured party's consent.
- ☐ Carve outs for administrative expenses that do not treat all professionals equally or on a pro rata basis.
- ☐ That shortens the period of limitations any party in interest (including a successor trustee) for bringing claims or causes of action against the lender or secured creditor.
- ☐ A finding without testimony to the effect that in consenting to the use of cash collateral or postpetition financing, the secured creditor or lender is acting in good faith.
- ☐ Waives the procedural requirements for foreclosure or repossession mandated under applicable nonbankruptcy law.
- ☐ In the event of a dispute under the agreement, places venue in a foreign jurisdiction.
- ☐ In the event of a dispute or default under the agreement, the debtor waives service of process, the doctrine of forum non conveniens, notice and hearing, and the right to a jury trial.
- ☐ Findings of fact on matters extraneous to the approval process.

PLEASE FURTHER TAKE NOTICE that if you object to the granting of the motion by the Court you must object in writing on or before (**), 199__. Your written objection is to be filed with the Office of the Clerk of the above-entitled Court at the Old Federal Building, 605 West Fourth Avenue, Room 138, Anchorage, Alaska 99501-2296, a copy served upon the undersigned, (insert name and address of counsel for the creditor), and transmitted to the United States trustee at 605 West Fourth Avenue, Room 258, Anchorage, Alaska 99501-2296, on or before said date.

SHOULD YOU FAIL TO SO OBJECT THE COURT MAY GRANT THE MOTION WITHOUT FURTHER NOTICE TO YOU.

DATED:

(Name of Attorney Firm)

By _____
Attorneys for _____

* Unless otherwise ordered,
not less than 15 days after
the mailing of the notice.

** Unless otherwise ordered,
not less than 2 days before
the date of the hearing

(Name of Attorney)
 (Name of Firm)
 (Address)
 (Telephone)
 (Fax)

(Attorney for _____)

UNITED STATES BANKRUPTCY COURT
 FOR THE DISTRICT OF ALASKA

In re	)	Case No.
	)	Chapter:
(Name of Debtor(s)))	
	)	NOTICE OF HEARING ON
Debtor(s).	)	MOTION TO OBTAIN CREDIT
_____)	

NOTICE is hereby given that the undersigned will bring on for hearing a motion to obtain credit outside the ordinary course of business by and between debtor and (name of creditor), on (*) _____, at _____ o'clock __.m. at _____.

Your rights may be affected. You should read these papers and the motion carefully and discuss them with your attorney, if you have one in this bankruptcy. (If you do not have an attorney, you may wish to consult one.)

PLEASE TAKE FURTHER NOTICE that the motion may propose one or more provision enumerated in AK LBR 4001-2(f) (check all that apply):

- ☐ Does not contain any provision enumerated in AK LBR 4001-2(f).
- ☐ Cross-collateralization clause that secures prepetition debt by postpetition assets in which the secured party would not otherwise have a security interest by virtue of its prepetition security agreement.
- ☐ Provision or findings of fact that bind the estate or all parties in interest with respect to the validity, perfection or amount of the secured party's lien or debt.
- ☐ Provision or findings of fact that bind the estate or all parties in interest with respect to the relative priorities of the secured party's lien and liens held by persons who are not party to the agreement.
- ☐ Primes the liens and/or security interests of secured creditors who are not parties to the agreement, unless consented to by the affected creditor.
- ☐ Waives Bankruptcy Code § 506(c), except to the extent effective only during the period in which the debtor in possession or trustee is authorized to use cash collateral or borrow funds.
- ☐ Precludes a future trustee with a duty to care for, preserve, and/or liquidate collateral from recovering the expenses of administration.
- ☐ Characterizes any postpetition payments as payments of interest, fees, or costs on prepetition obligations.
- ☐ Operates specifically or as a practical matter to divest the debtor, or any other party in interest, of any discretion in the formulation of a plan or administration of the estate, or limit access to the court to seek any relief under applicable provisions of law.
- ☐ Releases liability for the creditor's prepetition torts, breaches of contract, or lender liability, as well

- ☐ as releases prepetition or postpetition defenses and/or counterclaims.
- ☐ Waives avoidance actions.
- ☐ Includes the recovery from avoidance actions as adequate protection or part of the secured creditor's collateral.
- ☐ Automatic relief from the automatic stay of Bankruptcy Code § 362(a) upon default, conversion to chapter 7, or the appointment of a trustee.
- ☐ Adequate protection provisions that create liens on claims for relief arising under the Bankruptcy Code.
- ☐ Waives the right to move for a court order under Bankruptcy Code § 363(c) (2) (B) authorizing the use of cash collateral in the absence of the secured party's consent.
- ☐ Carve outs for administrative expenses that do not treat all professionals equally or on a pro rata basis.
- ☐ That shortens the period of limitations any party in interest (including a successor trustee) for bringing claims or causes of action against the lender or secured creditor.
- ☐ A finding without testimony to the effect that in consenting to the use of cash collateral or postpetition financing, the secured creditor or lender is acting in good faith.
- ☐ Waives the procedural requirements for foreclosure or repossession mandated under applicable nonbankruptcy law.
- ☐ In the event of a dispute under the agreement, places venue in a foreign jurisdiction.
- ☐ In the event of a dispute or default under the agreement, the debtor waives service of process, the doctrine of forum non conveniens, notice and hearing, and the right to a jury trial.
- ☐ Findings of fact on matters extraneous to the approval process.

PLEASE FURTHER TAKE NOTICE that if you object to the granting of the motion or approval of the agreement by the Court you must object in writing on or before (**), 199__. Your written objection is to be filed with the Office of the Clerk of the above-entitled Court at the Old Federal Building, 605 West Fourth Avenue, Room 138, Anchorage, Alaska 99501-2296, a copy served upon the undersigned, (if a motion to approve a cash collateral agreement insert name and address of counsel for the creditor), and transmit a copy to the United States trustee at 605 West Fourth Avenue, Room 258, Anchorage, Alaska 99501-2296, on or before said date.

SHOULD YOU FAIL TO SO OBJECT, PLEASE BE ADVISED THAT THE COURT MAY GRANT THE MOTION OR APPROVE THE AGREEMENT WITHOUT FURTHER NOTICE TO YOU.

DATED:

(Name of Attorney Firm)

By _____
Attorneys for _____

* Unless otherwise ordered,
not less than 15 days after
the mailing of the notice.

** Unless otherwise ordered,
not less than 2 days before
the date of the hearing